

**UNITED STATES DEPARTMENT OF COMMERCE****United States Patent and Trademark Office**Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/121,368 07/23/98 LINDEN

B S13.12-0036

QM22/0508

EXAMINER

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MINNEAPOLIS MN 55402-3319

RODRIGUEZ, C

ART UNIT	PAPER NUMBER
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3763

*16*

DATE MAILED:

05/08/01

Please find below and/or attached an Office communication concerning this application or proceeding.

**Commissioner of Patents and Trademarks**

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/121,368	LINDEN ET AL.	
	Examiner Cris L. Rodriguez	Art Unit 3763	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 18 September 2000.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-164, 166-168 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) 1-56 is/are allowed.  
 6) Claim(s) 57-61, 64-94, 96-129, 132-139, 142-145, 147-150, 164, and 166-168 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.  
 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved.  
 12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
 \* See the attached detailed Office action for a list of the certified copies not received.  
 14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

**Attachment(s)**

15) Notice of References Cited (PTO-892)                    18) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.  
 16) Notice of Draftsperson's Patent Drawing Review (PTO-948)                    19) Notice of Informal Patent Application (PTO-152)  
 17) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.                    20) Other:

## DETAILED ACTION

### *Reissue Applications*

1. The person who signed the submission establishing ownership interest is not recognized as an officer of the assignee, and he/she has not been established as being authorized to act on behalf of the assignee. See MPEP § 324.
2. It would be acceptable for a person, other than a recognized officer, to execute a submission establishing ownership interest, provided the record for the application includes a statement that the person is empowered to sign a submission establishing ownership interest and/or act on behalf of the organization.

Accordingly, a new submission establishing ownership interest which includes such a statement above, will be considered to be executed by an appropriate official of the assignee. A separately filed paper referencing the previously filed submission establishing ownership interest and containing a proper empowerment statement would also be acceptable.

3. Claims 57-61, 64-94, 96-129, 132-139, 142-145, 147-150, 164, and 166-168 are rejected under 35 U.S.C. 251 as being improperly broadened in a reissue application made and sworn to by the assignee and not the patentee. A claim is broader in scope than the original claims if it contains within its scope any conceivable product or process which would have infringed the original patent. A claim is broadened if it is broader in any one respect even though it may be narrower in other respects.

In the prosecution of the parent application 07/913,227, the amendment filed on March 2, 1994 adds to the claims the fact that the puncturing element was substantially non-parallel with respect to a portion of the catheter when in the puncturing position. This limitation was also argued as not being present in Imran (page 5 of the amendment).

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In addition, during prosecution of parent 08/269,936, applicant's introduced the "restraint" limitation into the independent claims (page 9 of amendment filed March 23, 1995) and indicated that the "case can be expedited by entering the requested amendments".

Actually, the new independent claims 57, 74, 82, 110, and 116 do not require either limitation listed above, and claims 86, 91, 103, 120, 125, 132, 142, 143, and 147 do not require the "restraint" limitation.

***Allowable Subject Matter***

4. Claims 1-56 are allowed over the prior art of record.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cris L. Rodriguez whose telephone number is (703) 308-2194. The examiner can normally be reached on M-F 7:30am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, Richard Seidel can be reached on (703) 308-5115. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3590 for regular communications and (703) 305-3590 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

*Cris L. Rodriguez*  
Cris L. Rodriguez  
April 24, 2001

*[Signature]*  
RICHARD K. SEIDEL  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700